IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2018 OF 2005

Chandrakant D. Bhosale ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr.Shriram S. Kulkarni, for the Applicant.

Mr.K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

7th April 2005

P.C.:

. Heard Counsel for the parties. Perused the record. Indeed, the offence for which the Applicant has been arrested is serious one. However, in my opinion, the material on the basis of which the Applicant is being prosecuted is not sufficient to attract the definition of "cruelty" within the meaning of section 498A of the Indian Penal Code. The allegation against the

Applicant, even accepting the material placed on record as it is, is only that he indulged in intercourse with deceased even during the period of pregnancy of two to two and half months. Besides, the family members of the Applicant were allegedly taunting the deceased. This material, in my view, is not sufficient to attract the definition of "cruelty" under section 498A of the Indian Penal Code, even though legal presumption is attracted against the Applicant. Taking overall view of the matter, the Applicant deserves to be released on bail on the following conditions.

(A) The Applicant be released onbail in connection with CR.No.40/2005 registered at Haveli Police Station on executing personal bond in the sum of Rs.15,000/- (Rupees Fifteen thousand only) with two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall report to the concerned police station twice a week on Wednesday and Sunday between 10 a.m. to 2 p.m. till the filing of the chargesheet.

(D) The Applicant shall co-operate for the early disposal of the trial. If the trial Court is of the opinion that the Applicant is in any manner responsible for the delay in disposal of the trial, that fact be recorded in the roznama, which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)